IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11636 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SATISHBHAI SHANTILAL SHAH

Versus

DISTRICT MAGISTRATE

Appearance:

1. Special Civil Application No. 11636 of 2002

MR ANIL S DAVE for Petitioner No. 1

MR KAMEN N SHUKLA for Petitioner No. 1

MS NANDINI JOSHI, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 16/05/2003

ORAL JUDGEMENT

By filing this petition, the petitioner-detenu has challenged his detention order dated 23/10/02. By

the said order, the petitioner is detained as a bootlegger under preventive detention. In the grounds of detention, there is a reference of two criminal cases which are pending against the petitioner. Both the aforesaid criminal cases are under the Bombay Prohibition Act. In the grounds of detention, there is also reference of statements of some witnesses highlighting the head strong activities of the petitioner.

The learned advocate for the petitioner submitted that the last registered case against the petitioner is of 14/06/02 and the detention order was passed as late as on 23/10/02. It is submitted that there is a delay in passing the detention order from the date of last registered offence. In my view, the delay in passing the detention order frustrates the entire object of preventive detention. The delay has not been explained by the detaining authority by filing affidavit in reply. In view of the fact that no reply is filed by the respondents to explain such delay in passing the detention order, the petition is required to be allowed on that ground.

In above view of the matter, when the aforesaid delay has not been explained by the authority by filing reply, the order of detention is required to be quashed and set aside and it is accordingly set aside. The petitioner - Satishbhai Shantilal Shah is ordered to be released forthwith, if he is not required in connection with any other case. Rule is accordingly made absolute.

(P. B. Majmudar, J.)

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